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## Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

FRANCES ENYART, Individually,  
and as Successor in Interest to  
WILLIAM ENYART, GREGORY  
ENYART, as an Individual, and  
AMANDA KELLEY as GUARDIAN  
AD LITEM TO A.E.,

## Plaintiffs,

V.

COUNTY OF SAN BERNARDINO,  
AARON CONLEY, DEPUTY C.  
UMPHLETT, ROD SKAGGS,  
DEPUTY SNOW, DEPUTY SILVA,  
and DOES 1-10, inclusive.

### Defendants.

Case No. 5:23-cv-00540-RGK-KK

**FIRST AMENDED COMPLAINT FOR:**

- 1. 4<sup>th</sup> AMENDMENT – EXCESSIVE FORCE**
- 2. 4<sup>th</sup> AMENDMENT – UNLAWFUL ARREST**
- 3. 14<sup>th</sup> AMENDMENT – INADEQUATE MEDICAL CARE**
- 4. 14<sup>th</sup> AMENDMENT – INADEQUATE POLICY & TRAINING**
- 5. 14<sup>th</sup> AMENDMENT – LOSS OF ASSOCIATION**
- 6. BANE ACT § 52.1**
- 7. NEGLIGENCE / CCP § 377.30**
- 8. WRONGFUL DEATH / CCP § 377.60**

I.

## INTRODUCTION

1. William "Billy" Enyart was a typical 36-year-old man. He loved sports, dirt bikes, his turtle Walter, and his daughter, A.E. Billy lived with his parents, Greg and Fran Enyart. Since Greg was diagnosed with cancer years ago, Billy dedicated his life to being Greg's full-time caregiver because he was too afraid to leave his dad's side.



2. On July 27, 2022 Billy's parents, and his two siblings, Amanda and Nick, confronted him with their concerns about his self-medicating to treat his severe anxiety and depression. Billy was diagnosed with severe depression and anxiety ten years prior. Until the last four years, Billy was prescribed Xanax to control his symptoms. However, when doctors began cracking down on opioid prescriptions, Billy started drinking daily to self-medicate.

3. During the intervention, Billy started yelling at his family although he never became violent or aggressive. As Greg had done before in the past, he called the non-emergency police line and requested an officer talk with Billy about getting help. These efforts had been successful in the past. When the San Bernardino County Sheriff deputy approached the Enyart family house, the family was going to meet the deputy outside. Billy was calm and non-aggressive. He told his family that he would go with them outside to talk to the deputy and say "hi."

1       4. Defendant Deputy Conley approached the front of the house  
2 aggressively and instantly escalated the contact. Without word or movement from  
3 Billy, Defendant Deputy Conley ordered Billy to turn out his pockets. In the  
4 process of turning out the left pocket, Defendant Deputy Conley grabbed Billy by  
5 the arms and threw him into a truck in the driveway. Defendant Deputy Conley  
6 chicken-winged Billy and yelled vulgarities. Billy's family was standing nearby  
7 and told Defendant Deputy Conley that Billy just had shoulder surgery two weeks  
8 ago and that he was not resisting arrest. Nevertheless, Defendant Deputy Conley  
9 continued to be rough with Billy by repeatedly slamming him up against the truck.  
10 Without sufficient probable cause, Defendant Deputy Conley arrested Billy for  
11 resisting.

12       5. During the arrest, which occurred in the family's front lawn, Billy's  
13 siblings, Amanda and Nick, both licensed nurses, repeatedly told Defendant Deputy  
14 Conley and his Supervisor, Defendant Sergeant Umphlett, that Billy was alcohol  
15 dependent and was going to be experiencing severe "life-threatening" withdrawals.  
16 They also informed Defendant Deputy Conley and Supervisor Umphlett that Billy  
17 was suffering from a mental health crisis. They begged Defendant Deputy Conley  
18 and Supervisor Umphlett to take Billy to a hospital because he needed medical and  
19 mental health treatment. Fran and Greg mentioned to both Defendants that Billy  
20 had a history of bad alcohol withdrawals. Nick told Supervisor Umphlett, "if this  
21 was my patient I would immediately request a 5150 evaluation." Supervisor  
22 Umphlett told the family, "Anyone with any kind of substance in their system, goes  
23 to jail." All of the Enyart family members expressed panicked concerns that Billy  
24 was going to experience severe alcohol withdrawals and required extensive medical  
25 treatment and monitoring.

26       6. Again, the family urged their concerns to Defendant Deputy Conley  
27 and Supervisor Umphlett, this time asking for Billy to be evaluated by the EMTs  
28 that just arrived on scene. Defendants refused to let the EMTs treat Billy and they

1 refused to let Amanda and Nick, both licensed nurses, discuss Billy's medical needs  
2 with the EMTs. The EMTs drove away at the direction of Defendant Deputy  
3 Conley and Defendant Umphlett. Finally, after the Enyart family's repeated pleas,  
4 Supervisor Umphlett told the family that she had an alcoholic father growing up  
5 and knows High Desert Detention Facility has great alcohol and drug programs.

6       7. Defendants transported Billy to High Desert Detention Facility. Based  
7 on the limited jail medical records in the family's possession, it is clear Defendant  
8 Deputy Conley and Supervisor Umphlett failed to relay the material medical  
9 information to the jail intake staff regarding Billy's pending life-threatening  
10 withdrawals and current mental health crisis. Make no mistake, there was a form  
11 that Defendants were required to fill out when booking Billy in jail, but Defendant  
12 Deputy Conley and Supervisor Umphlett answered "no" to all the field questions,  
13 including questions about Billy's medical and mental health needs.

14       8. Nevertheless, terrified that Billy was going to die in jail, over the next  
15 five days Fran and Greg called the jail thirty-two times. Each time, pleading to  
16 ensure Billy is ok and receiving appropriate withdrawal and mental health  
17 treatment. Due to the level of calls placed by Billy's family, on July 30, 2022, Fran  
18 was told by Defendant Deputy Skaggs, "this is jail, not a hospital." Defendant  
19 Deputy Skaggs then hung up on Fran.

20       9. Two days later, on August 1, 2022, at 1:15 p.m., Billy was found dead  
21 in his cell. Based on information and belief, Billy died from Delirium Tremens,  
22 which is the most serious symptom of alcohol withdraw and leads to death if not  
23 properly treated.

24       10. Based on the limited jail medical records in the family's possession,  
25 Billy was never flagged or treated for alcohol withdraw while in the custody and  
26 care of Defendant County of San Bernardino, despite the family's thirty-two phone  
27 calls begging for medical intervention.

28       ///

11. Billy's foreseeable and predictable death leaves A.E. fatherless. He also leaves behind his mother Fran, his father Greg, and his siblings, Amanda and Nicholas.

II.

## **JURISDICTION AND VENUE**

6       12. This action arises under the Constitution and laws, including Article  
7 III, Section 1 of the United States Constitution and is brought pursuant to 42 U.S.C.  
8 section 1983. The jurisdiction of this court is invoked pursuant to 28 U.S.C section  
9 1331 and 1333. State law claims are alleged as well, over which Plaintiffs invoke  
10 the Court's supplemental jurisdiction pursuant to 28 U.S.C. section 1337(a).

11       13. This case is instituted in the United States District Court for the  
12 Central District of California pursuant to 28 U.S.C. section 1331, as the judicial  
13 district in which all relevant events and omissions occurred and in which  
14 Defendants maintain offices, work, and/or reside. The incident giving rise to this  
15 lawsuit occurred in San Bernardino County custody.

16       14. Pursuant to the California Government Code, Plaintiffs filed their tort  
17 claim with the County of San Diego based on the foregoing incident on August 5,  
18 2022. The claim was rejected on September 28, 2022. Thus, the present complaint  
19 is timely, pursuant to California Government Code section 945.6.

III.

## PARTIES

22        15. Billy Enyart was a resident of San Bernardino County in the State of  
23 California and a citizen of the United States at all times relevant to this complaint.  
24 He died in-custody at West Valley Detention Center (“WVDC”), which is located  
25 in San Bernardino County.

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1       16. Francis Enyart “Fran” is an individual residing in the County of San  
2 Bernardino, California, and was at all relevant times the natural mother of Billy.  
3 Fran sues in her individual capacity as the mother of Billy. Fran seeks both  
4 survival and wrongful death damages under federal and state law.

5       17. Gregory Enyart “Greg” is an individual residing in the County of San  
6 Bernardino, California, and was at all relevant times the natural father of Billy.  
7 Greg seeks both survival and wrongful death damages under federal and state law.

8       18. A.E. is Billy’s minor daughter. A.E. is a resident of San Bernardino  
9 County in the State of California and a citizen of the United States at all times  
10 relevant to this complaint. A.E. brings this action in her individual capacity as the  
11 natural child of Billy and in a representative capacity as a successor-in-interest to  
12 Billy pursuant to California Code of Civil Procedure § 377.30 and 377.60. A.E.  
13 seeks both survival and wrongful death damages under federal and state law. By  
14 and through this complaint, and pursuant to Federal Rule of Civil Procedure  
15 17(c)(2), Billy’s sister, Amanda Enyart Kelley, moves this Court to appoint her as  
16 A.E.’s *guardian ad litem*, for the sole purpose of pursuing this action. An  
17 Application for a Guardian Ad Litem is submitted herewith.

18       19. Defendant Aaron Conley was working for the San Bernardino  
19 Sheriff’s Department on the morning of July 27, 2022, when he acted aggressively  
20 and unreasonably. Defendant Aaron Conley was working under the color of law  
21 and within the course and scope of his employment when the alleged wrongful acts  
22 occurred. Based on information and belief, Defendant Conley lived in the County  
23 of San Bernardino at all times mentioned herein and committed the culpable acts  
24 against Billy in the same county.

25       20. Defendant Umphlett was Defendant Conley’s supervisor. She was  
26 directly in charge of Deputy Conley and was on scene in the aftermath of  
27 Defendant Conley’s aggressive actions against Billy. Billy’s family told her  
28 explicitly that he needs mental health care and would be experiencing life-

1 threatening withdrawals. Defendant Umphlett directed Defendant Conley to  
2 unlawfully arrest Billy and to bypass 5150 and mental health clearance, putting  
3 Billy straight to jail. She did this despite direct knowledge from Billy's family that  
4 Billy would suffer fatal withdrawals without proper treatment. Defendant Umphlett  
5 was working under the color of law and within the course and scope of her  
6 employment when the alleged wrongful acts occurred. Based on information and  
7 belief, Defendant Umphlett lived in and worked for the San Bernardino County at  
8 all times herein and committed culpable acts against Plaintiffs in the same county.

9       21. Defendant Rod Skaggs was working at High Desert Detention Facility.  
10 He received several warnings from the Enyart family regarding Billy's medical and  
11 mental health condition. Defendant Skaggs knew Billy was suffering from life-  
12 threatening alcohol withdrawals and a mental health crisis but failed to relay that  
13 critical information to the jail medical staff or include that information in Billy's  
14 jail profile. Based on information and belief, Defendant Skaggs lived in and  
15 worked for the San Bernardino County at all times herein and committed culpable  
16 acts against Plaintiffs in the same county.

17       22. Defendant Deputy Snow was working at High Desert Detention  
18 Facility. She received several warnings from the Enyart family regarding Billy's  
19 medical and mental health condition. Defendant Snow knew Billy was suffering  
20 from life-threatening alcohol withdrawals and a mental health crisis but failed to  
21 relay that critical information to the jail medical staff or include that information in  
22 Billy's jail profile. Based on information and belief, Defendant Snow lived in and  
23 worked for the San Bernardino County at all times herein and committed culpable  
24 acts against Plaintiffs in the same county.

25       23. Defendant Deputy Silva was working at High Desert Detention  
26 Facility. She received several warnings from the Enyart family regarding Billy's  
27 medical and mental health condition. Defendant Silva knew Billy was suffering  
28 from life-threatening alcohol withdrawals and a mental health crisis but failed to

1 relay that critical information to the jail medical staff or include that information in  
2 Billy's jail profile. Based on information and belief, Defendant Silva lived in and  
3 worked for the San Bernardino County at all times herein and committed culpable  
4 acts against Plaintiffs in the same county.

5       24. Defendant County of San Bernardino ("County") is, and at all times  
6 mentioned herein was, a public entity authorized by law to establish certain  
7 departments responsible for enforcing the laws and protecting the welfare of San  
8 Bernardino County citizens. At all times mentioned herein, Defendant County was  
9 responsible for policing the public and for overseeing the operation, management,  
10 and supervision of the County jails such as West Valley Detention Center and High  
11 Desert Detention Center, as well as its Corrections Officers, Medical Staff, and  
12 inmates. The County is also responsible for developing, implementing, and  
13 amending jail policies, procedures, and training.

14       25. The names of the other individual Sheriff's Deputies and Medical Staff  
15 who are responsible for Plaintiffs' injuries are currently unknown to Plaintiffs. As  
16 such, these individuals are sued herein as DOES 1-10.

17       26. The true names and capacities whether individual, corporate, associate  
18 or otherwise, of defendants named herein as DOES 1-10 are unknown to Plaintiffs,  
19 who therefore sue said defendants by said fictitious names. Plaintiffs will amend  
20 this complaint to show said defendants' true names and capacities when the same  
21 have been ascertained. Plaintiffs are informed and believe and thereon allege that  
22 all defendants sued herein as DOES are in some manner responsible for the acts and  
23 injuries alleged herein.

24       27. At all times mentioned herein Defendants named herein as DOES 1-10  
25 were employees and/or independent contractors of San Bernardino County and in  
26 doing the acts hereinafter described acted within the course and scope of their  
27 employment. The acts of all defendants and each of them were also done under the  
28 color and pretense of the statutes, ordinances, and regulations of the San Bernardino

1 County and the State of California. In committing the acts and/or omissions alleged  
2 herein, all defendants acted under color of authority and/or under color of law.  
3 Plaintiffs sue all public employees named as Defendants in their individual  
4 capacities.

5 **IV.**

6 **FACTS RELEVANT TO ALL COUNTS**

7 28. On July 27, 2022, around 2:45 p.m., Billy's family called the  
8 nonemergency police line asking for someone to come talk to Billy because Billy  
9 was suffering from a mental health crisis. Billy's family had done this in the past  
10 and it resulted in helpful conversation between law enforcement and Billy regarding  
11 his life and medical needs.

12 29. Billy was calm and collected by the time Defendant Deputy Conley  
13 arrived on scene. Nicholas, Amanda, Fran, and Greg went outside to talk to  
14 Defendant Deputy Conley. Billy also walked outside to the front lawn. Defendant  
15 Deputy Conley asked which one of them was Billy. When Billy identified himself,  
16 Deputy Conley grabbed him by the left arm and walked him over to Nicholas's  
17 truck.

18 30. Defendant Deputy Conley ordered Billy to remove any items from his  
19 pockets. When Billy began emptying the second pocket, Defendant Deputy Conley  
20 ordered Billy to get his hand out of his pocket and then grabbed Billy by the arms  
21 and slammed him into Nick's truck.

22 31. The Enyart family watched in horror as Defendant Deputy Conley  
23 grabbed Billy's arm and shoved his right arm into his back and slamming Billy into  
24 the truck. Billy had three surgeries in this very arm and Billy pleaded with Deputy  
25 Conley to ease up because he was hurting him. At that same time, Amanda and  
26 Nick Enyart told Defendant Deputy Conley that Billy just had surgery. Greg told  
27 Defendant Conley that Billy had hardware in his arms. Specifically, they told  
28 Defendant Deputy Conley that Billy had a mass taken out of his back under the left

1 shoulder blade two weeks prior to the incident. Doctors said that it was a four-to-  
2 six-week recovery and directed Billy not to lift anything heavy.

3 32. At that point, Defendant Deputy Conley called for more back up.  
4 Additional officers arrived, including Sergeant Umphlett, and Billy was unlawfully  
5 arrested for resisting arrest. Billy was then placed in the back of a police car.

6 33. While Billy sat in the police car, Sergeant Umphlett interviewed  
7 Billy's family inside the house. Nick, who is a licensed nurse, told Sergeant  
8 Umphlett that Billy is suffering from a mental health crisis and is a high-risk  
9 patient. Nick advised Sergeant Umphlett that Billy will certainly experience "life-  
10 threatening" withdrawals due to his alcohol dependency. Nick told Sergeant  
11 Umphlett, "If this was my patient, I would send an order for a 5150 hold." Sergeant  
12 Umphlett responded that Billy was going to jail.

13 34. Fran Enyart also told Sergeant Umphlett that Billy drinks daily and  
14 that he is at risk of seizure or stroke. Sergeant Umphlett said, "Anyone with any  
15 kind of substance in their system goes to jail."

16 35. Sergeant Umphlett repeatedly told the Enyart family that Billy is not  
17 going to a withdrawal center, but he is going to jail. Sergeant Umphlett told the  
18 Enyart family that High Desert Detention Center had an alcohol treatment program  
19 and Billy would receive proper withdraw treatment there.

20 36. Defendants Conley and Umphlett transported Billy straight to jail.  
21 Defendants failed to obtain a medical and mental health clearance despite the  
22 Enyart family's serval warnings about Billy's mental health crisis and impending  
23 alcohol withdraws.

24 37. San Bernardino jails require arresting officers to fill out a portion of  
25 the intake form entitled "Arresting Officer Questions." The purpose of the form is  
26 to relay material information the arresting officer learned in the filed to the jail  
27 intake staff. The questions relate to whether an inmate has injuries, mental health  
28 issues, and/or drug and alcohol issues. Defendants Conley and Umphlett answered

1     “No” to every question and failed to explicitly relay the Enyart Family’s concerns  
2     and medical warnings.

3                 38. From July 27, 2022, to July 31, 2022, Billy’s family constantly called  
4     the jail repeatedly telling whoever answered that Billy could be in critical condition.  
5     Over the course of these days, the family called a total of thirty-two times, pleading  
6     with every person who answered the phone that Billy would be suffering from life-  
7     threatening withdrawals and is experiencing a mental health crisis. Two of the  
8     reception deputies that received several of the Enyart Family’s calls was Defendant  
9     Snow and Defendant Silva.

10                 39. Defendant Snow and Defendant Silva were told over and over again  
11     that Billy was severely alcohol dependent and would be experiencing life-  
12     threatening withdrawals. Fran and Greg also told Defendant Snow and Defendant  
13     Silva that Billy was experiencing a mental health crisis. Fran and Greg Enyart  
14     begged Defendant Snow and Defendant Silva to get Billy the medical care he  
15     needed. Defendant Snow and Defendant Silva reassured the Enyart’s family that  
16     Billy was “fine” despite knowing that he had been suffering from medical distress.  
17     Defendant Snow did inform the family that Billy said he was in pain. Based on the  
18     limited jail medical records in the family’s possession, Defendant Snow and  
19     Defendant Silva did not relay this critical medical information to the medical staff  
20     nor did they include mention of the Greg and Fran’s warnings and concerns in  
21     Billy’s jail profile.

22                 40. On July 30, 2022, Defendant Silva transferred the Enyart Family’s  
23     calls to Defendant Deputy Skaggs, who told them that Billy was doing fine. Billy’s  
24     family told Deputy Skaggs that Billy was going to die if he did not receive proper  
25     medical and mental health care. Again, Fran and Greg told Deputy Skaggs that  
26     Billy was severely alcohol dependent and would be going through severe, life-  
27     threatening withdrawals. They also told Defendant Skaggs that they initially called  
28     the police because Billy’s was having a mental health crisis. Deputy Skaggs told

1       Billy's family, "This is a jail, not a hospital" and hung up on them. Based on the  
2 limited jail medical records in the family's possession, Defendant Skaggs did not  
3 relay this critical medical information to the medical staff, nor did he include  
4 mention of the Enyart Family's warnings and concerns in Billy's jail profile.

5           41. On July 31, 2022, the Enyart Family was told that Billy was  
6 transferred to West Valley Detention Center. As it turns out, despite the constant  
7 reassurance from High Desert Detention Center ("HDDC") that Billy was fine,  
8 Billy was actually decompensating and experiencing severe delirium tremens  
9 ("DTs"). Over the course of Billy's detainment at HDDC, he slowly started to have  
10 vivid and constant auditory and visual hallucinations compounded with severe  
11 confusion and disorientation. Not knowing how to treat Billy, HDDC transferred  
12 Billy to West Valley Detention Center. Notably, no one from HDDC informed  
13 West Valley of the warnings they received from Billy's family.

14           42. Billy's symptoms got worse and worse after he was transferred to  
15 West Valley. Billy's symptoms all point to delirium tremens, the most serious  
16 symptom of alcohol withdrawal and can be fatal when untreated.

17           43. Knowing that Billy was transferred to another jail, the Enyart Family  
18 called West Valley a total of ten times in two days. Each time, Fran and Greg  
19 spoke to DOE jail staff and asked if Billy was ok. Fran and Greg warned jail staff  
20 that Billy would be suffering from life-threatening alcohol withdrawls and was  
21 experiencing a mental health crisis. The Enyart's were assured Billy was fine and  
22 receiving appropriate treatment at West Valley in the reception area.

23           44. Fran and Greg called West Valley at least four times on August 1,  
24 2022. At the times they called, Billy had already been found dead in his cell.  
25 However, each time Fran and Greg called that day, they were told Billy was "fine"  
26 and receiving proper treatment. At 11:45 p.m. that night, two detectives showed up  
27 at the Enyart Family house and told Fran and Greg that Billy died in custody earlier  
28 that day at 1:15 p.m.

1       45. Based on the limited jail medical records in the Enyart Family's  
2 possession, the thirty-two calls the family placed to High Desert and West Valley  
3 fell on deaf ears as there is no indication in Billy's medical records that his family  
4 warned jail staff about Billy suffering from life-threatening alcohol withdraws and a  
5 mental health crisis. The repeated failures by Defendant Conley, Defendant  
6 Umphlett, Defendant Snow, Defendant Silva, and Defendant Skaggs, as well as the  
7 policy failures by San Bernardino County, directly caused Billy's premature and  
8 foreseeable death.

9        46. A.E. will never get to share another adventure with her dad, or have  
10 his help on homework, or walk her down the aisle. She is currently in counseling  
11 and misses her dad daily. Fran and Greg will never be the same. Their youngest  
12 child was taken from them despite moving heaven and earth to get Billy help.  
13 Aside from the love they had for Billy, Billy was Greg's primary caregiver after he  
14 was diagnosed with cancer. Billy did everything for his father, from making him  
15 food, to picking up groceries, and taking him to the doctor. Since Billy's death, a  
16 hole has replaced their heart.

## **FIRST CAUSE OF ACTION**

## **42 U.S.C. Section 1983 – Fourth Amendment Excessive Force**

**(By Successor in Interest Against Defendant Conley and DOES 1-10)**

20       47. Plaintiffs reallege and incorporate by reference all paragraphs stated  
21 above, as though fully set forth herein.

22       48. To prove an excessive force claim under the Fourth Amendment, a  
23 pretrial detainee must show that the officers' use of force was "objectively"  
24 unreasonable. The detainee is not required to show that the "subjectively" aware  
25 that their use of force was unreasonable. *Kingsley v. Hendrickson*, 576 U.S. 389,  
26 396-97 (2015). "The following considerations may bear on the reasonableness (or  
27 unreasonableness) of the force used: 'the relationship between the need for the use  
28 of force and the amount of force used; the extent of the plaintiff's injury; any effort

1 made by the officer to temper or to limit the amount of force; the severity of the  
2 security problem at issue; the threat reasonably perceived by the officer; and  
3 whether the plaintiff was actively resisting.”” *Hyde v. City of Willcox*, 23 F.4th 863,  
4 870 (9th Cir. 2022).

5       49.   Defendant Deputy Conley arrived at the Enyart Family home knowing  
6 the family called the nonemergency line requesting a mental health evaluation.  
7 There was no report of crime or injury.

8       50.   When Defendant Deputy Conley arrived, Billy walked out of the house  
9 with his family right next to him. According to several witnesses, Billy was calm  
10 and compliant. Given those circumstances, there was no reason to search Billy or  
11 to reasonably conclude he was dangerous.

12       51.   Defendant Deputy Conley approached the Enyart Family in a hostile  
13 and aggressive manner. He immediately asked Billy to empty his pockets. Billy  
14 complied. Billy put his right hand in the right pocket removing his phone and  
15 pocketknife. Billy placed the items on the truck as Defendant Deputy Conley  
16 instructed. Defendant Deputy Conley then asked Billy to empty the left pocket. As  
17 Billy followed Defendant Deputy Conley’s instructions to empty out his left pocket,  
18 Deputy Conley, without warning, violently grabbed Billy’s right arm and pushed it  
19 up into Billy’s shoulder blade and then slammed Billy against the truck. Billy cried  
20 out in pain. Billy’s family yelled out that Billy just had surgery and had hardware  
21 in his shoulders. Defendant Deputy Conley kept throwing Billy against the truck  
22 and jamming both arms into Billy’s back, chicken-winging Billy.

23       52.   Defendant Deputy Conley called for backup even though Billy was not  
24 fighting back or being physical in any way. Defendant Deputy Conley said, “give  
25 me your other arm or I will tase you.” Again, the Enyart Family told Defendant  
26 Deputy Conley that Billy could not move his arm that way because of recent  
27 shoulder surgery.

28       ///

1       53. Billy gripped the truck bed with his left hand because he did not want  
2 his shoulder to be severely re-injured. A minute later, unknown deputies arrived to  
3 the Enyart house. They tackled Billy to the ground and handcuffed him. Billy was  
4 then placed in the back of a police car.

5       54. Based on the alleged facts above, there was no rhyme or reason to use  
6 force on Billy. The initial call was not about Billy's supposed propensity for  
7 violence, but rather, because Billy was going through a mental health crisis. The  
8 initial call was to the nonemergency line to get Billy help, not to get him arrested.  
9 When Defendant Deputy Conley arrived, Billy was calm and not posing a threat to  
10 anyone. He was surrounded by his loving family. Thus, Defendant Conley had no  
11 reasonable justification to use force on Billy and treat him like an armed suspect.

12       55. A reasonable deputy in the same circumstances would have taken  
13 reasonable measures to take time to investigate and de-escalate the situation, if  
14 necessary. Instead, Defendant Deputy Conley immediately escalated the situation  
15 and used unreasonable force on a calm, compliant, and mentally unstable citizen.

16       56. Based on Defendant Deputy Conley's unreasonable conduct, Billy  
17 suffered from excruciating pain in front of his family. He was repeatedly slammed  
18 into Nick's truck like a rag doll, each time causing more and more injury to Billy's  
19 shoulders. Defendant Deputy Conley had no regard for the surgery Billy had on his  
20 shoulder just two weeks prior despite the warnings from Billy and his family.

21       57. Based on these injuries, Billy's successor in interest is entitled to  
22 money damages pursuant to 42 U.S.C. section 1983 to compensate Billy for his  
23 injuries and for the violation of his Constitutional and civil rights.

24       58. In addition to compensatory, economic, consequential, and special  
25 damages, Billy's successor in interest is entitled to punitive damages against  
26 Defendant Deputy Conley under 42 U.S.C. section 1983, in that his actions were  
27 done intentionally and with the intent to violate Plaintiff's rights, or was done with  
28 a reckless disregard or wanton disregard for Billy's constitutional rights.

## **SECOND CAUSE OF ACTION**

**42 U.S.C. Section 1983 – Unreasonable seizure of a person – Probable Cause  
Arrest  
(By Successor in Interest Against Defendant Conley, Defendant Umphlett, and  
DOES 1-10)**

59. Plaintiffs reallege and incorporate by reference all paragraphs stated above, as though fully set forth herein.

60.

61. “A claim for unlawful arrest is cognizable under 1983 as a violation of the Fourth Amendment, provided the arrest was without probable cause or other justification.” *Lacey v. Maricopa County*, 693 F.3d 896, 918 (9th Cir. 2012).

62. “Probable cause exists if the arresting officers had knowledge and reasonably trustworthy information of facts and circumstances sufficient to lead a prudent person to believe that the [the arrestee] had committed or was committing a crime.” *Gravelet-Blondin v. Shelton*, 728 F.3d 1086, 1097-98 (9th Cir. 2013).

63. Billy's family called the nonemergency line, not because Billy was in the act of committing a crime, but rather, Billy's parents were concerned about his mental health. Billy's parents reported that Billy was having a mental health crisis and needed help. There was no report of a crime being committed or that an injury occurred.

64. Based on no evidence of a crime or reasonable suspicion a crime was taking place, Deputy Conley grabbed Billy and used excessive force to detain Billy by throwing him against the truck and pinning him into place. Billy was not free to move and stayed pinned against the truck until back-up deputies arrived and placed handcuffs on Billy. At no time during this incident, did Billy try to resist or runaway. Billy and his family repeatedly told Deputy Conley that his shoulders were injured and could not be chicken-winged high behind his back.

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1       65. Deputy Conley roughly arrested Billy in front of his whole family.  
2 They all witnessed that Billy was compliant, was calm, was not a harm to others or  
3 himself, and yet Deputy Conley arrested him abruptly and harshly. His family tried  
4 over and over to talk to Deputy Conley, to inform him of why they called the  
5 nonemergency line, but Deputy Conley did not listen to a word the family was  
6 saying.

7       66. Billy was unlawfully charged with resisting arrest and was transported  
8 to High Desert Detention Facility.

9       67. Sergeant Umphlett was the supervisor on scene and acting under the  
10 color of state law. Sergeant Umphlett knew the circumstances of the Enyart's call  
11 to the nonemergency police line. She also knew, based on her interview of the  
12 Enyart family, that Billy was not committing a crime and was not a danger to  
13 himself or others when Deputy Conley first detained Billy. Furthermore, Sergeant  
14 Umphlett knew that Billy was calm and compliant when Deputy Conley chicken-  
15 winged him and threw him into Nick's truck repeatedly. Despite this information,  
16 Sergeant Umphlett directed and/or acquiesced to and/or refused to stop Billy's  
17 arrest for PC69.

18       68. In her capacity as Defendant Conley's supervisor, and based on her  
19 knowledge of the circumstances, Sergeant Umphlett knew Defendant Conley and  
20 DOES were unlawfully arresting Billy and that those actions deprived Billy of his  
21 constitutional right.

22       69. Furthermore, in her capacity as Defendant Conley's supervisor, and  
23 based on her knowledge of the circumstances, Sergeant Umphlett engaged in the  
24 unconstitutional conduct showing a reckless or callous indifference to Billy's  
25 constitutional rights.

26       ///

27       ///

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1       70. Based on the injuries alleged above, and ultimately Billy's untimely  
2 death, Billy's successor in interest is entitled to money damages pursuant to 42  
3 U.S.C. section 1983 to compensate Billy for his injuries and loss of life, and for the  
4 violation of his Constitutional and civil rights.

5       71. In addition to compensatory, economic, consequential, and special  
6 damages, Billy's successor in interest is entitled to punitive damages against  
7 Defendant Deputy Conley under 42 U.S.C. section 1983, in that his actions were  
8 done intentionally and with the intent to violate Plaintiff's rights, or was done with  
9 a reckless disregard or wanton disregard for Billy's constitutional rights.

### **THIRD CAUSE OF ACTION**

## **42 U.S.C. Section 1983 – Inadequate Medical Care**

**(By Successor in Interest Against Deputy Conley, Sergeant Umphlett, Deputy Skaggs, Deputy Snow, Deputy Silva, and DOES 1-10)**

14       72. Plaintiffs reallege and incorporate by reference all paragraphs stated  
15 above, as though fully set forth herein.

16       73. The elements of a pretrial detainee's medical care claim against an  
17 individual defendant under the due process clause of the Fourteenth Amendment  
18 are:

- a. The defendant made an intentional decision with respect to the conditions under which the plaintiff was confined;
  - b. Those conditions put the plaintiff at substantial risk of suffering serious harm;
  - c. The defendant did not take reasonable available measures to abate that risk, even though a reasonable officer in the circumstances would have appreciated the high degree of risk involved – making the consequences of the defendant’s conduct obvious; and

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1                   d. By not taking such measures, the defendant caused the  
2 plaintiff's injuries. *Castro v. County of Los Angeles*, 833 F.3d  
3 1060, 1072 (2016).

4                  74. Pursuant to the POST standards and Regulations that govern the  
5 conduct of law enforcement officers, "The arresting officer is responsible for  
6 informing custodial personnel and documenting any observable, known, or  
7 recognized signs of injury, illness, possible drug overdose, mental incapacitation,  
8 suicide risk, or whether that person requires medication."

9                  75. Specifically, Billy's sister, Amanda, and his brother, Nick, both  
10 licensed nurses, repeatedly told Defendant Deputy Conley and his Supervisor,  
11 Defendant Deputy Umphlett, that Billy was alcohol dependent and was going to be  
12 experiencing severe "life-threatening" withdrawals. They also informed Defendant  
13 Deputy Conley and Supervisor Umphlett that Billy was suffering from a mental  
14 health crisis. They begged Defendant Deputy Conley and Supervisor Umphlett to  
15 take Billy to a hospital because he needed medical and mental health treatment.  
16 Nick told Supervisor Umphlett, "if this was my patient, I would immediately  
17 request a 5150 evaluation." Supervisor Umphlett told the Enyart Family, "Anyone  
18 with any kind of substance in their system, goes to jail."

19                  76. Billy's family continually told Deputy Conley and Sergeant Umphlett  
20 that Billy was a heavy drinker and was at high risk for "life-threatening"  
21 withdrawals, needed high blood pressure medication, and needed mental health  
22 assistance.

23                  77. Sergeant Umphlett told the Enyart Family that she would not take  
24 Billy to the hospital but that High Desert had a "great" alcohol and drug program.  
25 Sergeant Umphlett ensured the Enyart family that Billy would receive appropriate  
26 medical and mental health care at jail.

27                  78. Billy was transported to High Desert Detention Facility rather than to a  
28 hospital for medical and mental health clearance.

1       79. Based on the limited jail medical records in the family's possession, it  
2 is clear Defendant Deputy Conley and Supervisor Umphlett failed to relay the  
3 material medical information to the jail intake staff regarding Billy's pending "life-  
4 threatening withdrawals" and current mental health crisis. Make no mistake, there  
5 was a form filled out, but Defendant Deputy Conley and Supervisor Umphlett  
6 answered "no" to all the field questions, including questions about Billy's medical  
7 and mental health needs. Meaning, Defendant Deputy Conley and Supervisor  
8 Umphlett intentionally failed to relay critical medical information to the jail in  
9 conscious disregard of Billy's life.

10      80. Despite their repeated pleas to Defendant Conley and Umphlett,  
11 terrified that Billy was going to die in jail, over the next five days Billy's family  
12 called the jail thirty-two times. Each time, pleading to ensure Billy is ok and  
13 receiving appropriate withdrawal and mental health treatment.

14      81. The Enyart Family explicitly informed Defendant Snow, Defendant  
15 Silva, and Defendant Skaggs that Billy was going to die in jail from severe alcohol  
16 withdrawals. Fran and Greg did everything in their power to get Billy the medical  
17 and mental health care he needed. These critical warnings and requests for medical  
18 attention on behalf of Billy were not relayed to the medical staff, or inputted in  
19 Billy's jail profile, thereby intentionally denying Billy life-saving treatment.

20      82. The National Commission on Correctional Health Care requires that  
21 every jail implement an alcohol withdrawal policy and train staff regarding the  
22 signs and symptoms associated with alcohol withdrawals. Based on information a  
23 belief, and the Remedial Plan governing San Bernardino County jails, every  
24 Defendant was trained that Delirium Tremens (DT's) is a **medical emergency** and  
25 occurs because of severe alcohol withdrawal. Symptoms include disorientation,  
26 memory disturbance, tactile and/or visual hallucinations, delusions including  
27 paranoia, increased pulse, blood pressure, temperature, sweating, and tremors.  
28 Every Defendant is also trained that untreated DT's will likely result in death.

1       83. Once Billy was flagged as a daily drinker with a history of DT  
2 withdrawals, Billy should have been prescribed a medication regimen including  
3 Librium, Thiamine, and Zofran. He also should have been housed in an area that  
4 could provide 24-hour medical monitoring and at least twice daily vital checks.  
5 The moment Billy displayed severe signs of DTs, Billy should have immediately  
6 been rushed to the Emergency Room.

7       84. Based on the limited medical records, Billy did display severe signs of  
8 DT's for at least two or three days prior to his death however the medical staff was  
9 not notified that Billy was a daily drinker and would experience severe alcohol  
10 withdrawals. Rather, without knowing Billy's medical history, mental health staff  
11 assumed Billy was severely mentally ill and potentially schizophrenic because Billy  
12 displayed severe confusion and effects of auditory and visual hallucinations. Had  
13 the Enyart family's warnings been relayed to the medical staff, any reasonable  
14 medical professional would have immediately begun treatment for DT's and would  
15 have rushed Billy to the emergency Room.

16       85. For example, on the morning of his death, Billy was sitting backwards  
17 on the toilet facing the wall and responding to internal stimuli. Billy kept repeating,  
18 "don't take that pillow, appetizer, to die." The day prior, Billy was confused,  
19 paranoid, and delusional as he was talking to a non-existing identity and claiming  
20 he owned the facility. Billy was continually looking under the bed and sink for  
21 unknown reasons. Severe confusion and hallucinations are the most common  
22 symptoms associated with DT's.

23       86. As such, based on the county's training protocol, each Defendant was  
24 aware that severe alcohol withdrawals are highly dangerous and can lead to death if  
25 not properly treated. Accordingly, each Defendant knew that failing to relay this  
26 critical medical information to the jail medical staff would likely lead to Billy's  
27 death.

28       ///

1       87. Furthermore, based on the county's training protocol, each Defendant  
2 was aware that material medical information relating to an arrestee or inmate must  
3 be timely conveyed to jail medical staff.

4       88. The Enyart Family called the jail so frequently that on July 30, 2022,  
5 Fran Enyart was told by Defendant Skaggs, "this is jail, not a hospital."

6       89. In total, Greg and Fran called the two detention centers a total of  
7 thirty-two times, trying to ensure that their beloved son gets the correct medical  
8 treatment. They were given reassurance time-and-time again that Billy was "fine"  
9 and receiving appropriate medical treatment.

10      90. However, medical records reveal that the medical staff had no idea that  
11 Billy had a drinking problem, despite the family's consistent and persistent attempts  
12 to tell someone that Billy was going to experience "life-threatening withdrawals."  
13 Accordingly, due to every Defendants' critical failure to relay material medical  
14 information, Billy was never administered withdrawal medications and was not  
15 medically monitored as indicated.

16      91. All Defendants and DOES at HDDC and WVDC knew that the Enyart  
17 Family was trying to give information pertinent to proper medical care of Billy, and  
18 yet, no one did the due diligence of telling medical personnel about Billy's  
19 impending medical distress.

20      92. Based on the injuries alleged above, and ultimately Billy's untimely  
21 death, Billy's successor in interest is entitled to money damages pursuant to 42  
22 U.S.C. section 1983 to compensate Billy for his injuries and loss of life, and for the  
23 violation of his Constitutional and civil rights.

24      93. In addition to compensatory, economic, consequential, and special  
25 damages, Billy's successor in interest is entitled to punitive damages against  
26 Defendant Deputy Conley under 42 U.S.C. section 1983, in that his actions were  
27 done intentionally and with the intent to violate Plaintiff's right, or was done with a  
28 reckless disregard or wanton disregard for Billy's constitutional rights.

## **FOURTH CAUSE OF ACTION**

## **42 U.S.C. Section 1983 – Inadequate Policy and Training**

**(By Successor in Interest Against San Bernardino County)**

94. Plaintiffs reallege and incorporate by reference all paragraphs stated above, as though fully set forth herein.

95. Defendants San Bernardino County, together with County DOE policymakers and supervisors, maintained, inter alia, the following unconstitutional customs, practices, and policies:

- (a) Maintaining an inadequate policy and providing inadequate training regarding relaying material medical information privy to the arresting deputy to the jail intake staff. During the jail intake screening process, arresting deputies are not properly trained to relay critical medical information to the jail intake staff. Such a policy and adequate training would ensure that inmates receive proper and timely treatment and medication;
  - (b) Maintaining an inadequate policy and providing inadequate training regarding receiving information from family members (or other third parties) that call the jail complaining of medical and mental healthcare concerns for a particular inmate. San Bernardino County failed to maintain any policy that directs staff to verbally relay medical information from third parties to the medical staff. In that same vein, San Bernardino County failed to maintain any policy that directs staff to document the medical and mental healthcare warnings that jail staff receives from third parties in an inmate's jail profile. The importance of relaying critical medical information to the medical staff ensures the inmate will receive proper and timely treatment;
  - (c) Maintaining an inadequate policy and providing inadequate training relating to which facility or jail a medically distressed inmate should

1                   be transported to. Because Defendant Conley and Umphlett knew that  
2                   Billy was in serious medical distress and would be suffering from  
3                   “life-threatening” withdrawals, Defendants should have transported  
4                   Billy to a hospital or a medical facility within the jail system that has  
5                   24-hour medical and mental health care; and

6                   (d) Failing to adequately discipline county deputies and medical staff for  
7                   the above-referenced categories of misconduct, including “slaps on the  
8                   wrist,” discipline that is so slight as to be out of proportion to the  
9                   magnitude of the misconduct, and other inadequate discipline that is  
10                  tantamount to encouraging misconduct or ratifying their conduct.

11                  96. Taking no action since 2016, despite signing a Consent Decree which  
12                  consisted of vast changes, including a “Plan” between the Prison Law Office and  
13                  the County to fix the broken inadequate medical policies.

14                  97. The “Plan” which consisted of remedial charges in policy, procedure,  
15                  and staff changes is “notice” that the County was aware of unsafe conditions in its  
16                  jails were failing to treat inmates for serious medical conditions because their staff  
17                  was not properly trained to relay critical medical information to the jail medical  
18                  staff. As such, the failure to provide inadequate care is a longstanding custom.

19                  98. Based on information and belief, Defendant Conley, Defendant  
20                  Umphlett, Defendant Snow, Defendant Silva, Defendant Skaggs, and DOES 1-10  
21                  acted pursuant to an expressly adopted official policy or a longstanding practice or  
22                  custom of Defendant San Bernardino County, including an unconstitutional policy  
23                  of not relaying critical medical information to the jail medical staff, as well as a  
24                  policy of mishandling situations with individuals who suffer from intoxication or  
25                  withdrawals, and severe life threatening crises.

26                  99. Prior to Billy’s foreseeable death, San Bernardino County was put on  
27                  notice, via other similar cases, that it needed to implement a policy, and train its  
28                  employees, to relay critical medical information learned in the field to jail medical

1 staff. For example, prior to Billy's death, Betty Lozano, Jacob Hoyo, Albert Snell,  
2 Joshua Pitts, David Liebrenz, and Angel Sapien all died in-custody because  
3 material medical information was not relayed to the jail medical staff.

4 100. In the last three years, over 30 people have died in San Bernardino  
5 jails with 18 of these deaths, or 60 percent, being medically related, according to  
6 Sheriff's Department figures, which was stated in response to Betty Lozano's jail  
7 death.

8 101. The failures referenced above, and the failure to implement adequate  
9 training, was a moving force in Billy's foreseeable death.

10 102. By reason of the aforementioned acts and omissions, Billy died. His  
11 pain and suffering and loss of life is a result of the callous indifference of all  
12 Defendants.

13 103. All Defendants and DOES 1-10, together with various other officials,  
14 whether named or unnamed, had either actual or constructive knowledge of the  
15 deficient policies, practices and customs alleged in the paragraphs above. Despite  
16 having knowledge as stated above, these defendants condoned, tolerated and  
17 through actions and inactions thereby ratified such policies. Said Defendants also  
18 acted with deliberate indifference to the foreseeable effects and consequences of  
19 these policies with respect to the constitutional rights of Billy, his family, and other  
20 individuals similarly situated.

21 104. By perpetrating, sanctioning, tolerating and ratifying the outrageous  
22 conduct and other wrongful acts, San Bernardino County acted with intentional,  
23 reckless, and callous disregard for the life of Billy and for his and constitutional  
24 rights. Furthermore, the policies, practices, and customs implemented, maintained,  
25 and still tolerated by San Bernardino County and DOES 1-10 were affirmatively  
26 linked to and were a significantly influential force behind Billy's death.

27       ///

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1       105. Fran Enyart brings this claim as successor in interest to Billy and seeks  
2 survival and wrongful death damages under this claim individually, as does Greg  
3 and A.E.

4       106. Plaintiffs seek damages, accounting for Billy's pain and suffering, loss  
5 of earning capacity, and loss of enjoyment of life. Billy's family seeks damages  
6 relating to their loss of the love, companionship, affection, comfort, care, society,  
7 training, guidance, and past and future support. Plaintiff also seeks reasonable  
8 costs, funeral and burial expenses, and attorney's fees under 42 U.S.C. section  
9 1988.

## **FIFTH CAUSE OF ACTION**

**42 U.S.C. Section 1983 – Due Process – Loss of Familial Association  
(By Fran Enyart, Greg Enyart, and A.E. Against All Defendants and  
DOES 1-10)**

14       107. Plaintiffs reallege and incorporate by reference all paragraphs stated  
15 above, as though fully set forth herein.

16       108. The Ninth Circuit recognizes that a parent and child have a  
17 constitutionally protected liberty interest under the Fourteenth Amendment in the  
18 companionship and society of his or her child. *Curnow v. Ridgecrest Police*, 952  
19 F.2d 321, 325 (9th Cir. 1991).

20       109. All Defendants' failures hereinabove described was so egregious and  
21       outrageous it would shock the contemporary conscience of any family trying to get  
22       help for their loved one that is being detained in jail. What more could anyone else  
23       do?

24        110. Each member of Billy's family told Deputy Conley and Sergeant  
25 Umphlett that Billy was going to experience "life-threatening" withdrawals and was  
26 suffering from a mental health crisis. No matter what information they told  
27 Defendants, Defendants did not care—they were taking Billy to jail no matter his  
28 medical needs. Then, once they arrived at High Desert, Defendant conley and

1 Supervisor Umphlett intentionally refused to relay critical medical information to  
2 the jail intake staff, ensuring Billy's death.

3       111. Similarly, Defendant Snow, Silva, and Skaggs, each knew that Billy  
4 was in the midst of severe "life-threatening" alcohol withdrawals. Fran and Greg  
5 Enyart told each Defendant that Billy was going to die from withdrawals if he did  
6 not get proper treatment. Each Defendant lied to Plaintiffs and told them Billy was  
7 fine despite knowing he was suffering from medical problems. Despite the life-  
8 threatening nature of Billy's medical needs, each Defendant deliberately failed to  
9 relay critical medical information to the jail medical personnel, which directly  
10 caused Billy's death.

11       112. All of the family's warnings and pleas for help were ignored. Billy  
12 remained secluded, unmonitored, and unmediated, despite displaying signs and  
13 symptoms associated with DT's such as severe confusion and hallucinations. As a  
14 result, Fran, Greg, and A.E., were deprived of their constitutional right to familial  
15 association, society, and companionship, without due process of law, in violation of  
16 the Fourteenth Amendment of the United States Constitution.

17       113. These facts equate to conduct that shocks the conscience. As such all  
18 Defendants and DOES 1-10 are liable for the damages associated with Plaintiffs'  
19 loss of relationship. A.E. will never get to share another adventure with her dad, or  
20 have his help on homework, or walk her down the aisle. She is currently in  
21 counseling and misses her dad daily. Fran and Greg will never be the same. Their  
22 youngest child was taken from them despite moving heaven and earth to get Billy  
23 help. Aside from the love they had for Billy, Billy was Greg's primary caregiver  
24 after he was diagnosed with cancer. Billy did everything for his father, from  
25 making him food, to picking up groceries, and taking him to the doctor. Since  
26 Billy's death, a hole has replaced their heart.

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## **SIXTH CAUSE OF ACTION**

## **BANE ACT (Civ. Code, §52.1)**

**(By Successor in Interest Against All Defendants and DOES 1-10)**

114. Plaintiffs reallege and incorporate by reference all paragraphs stated above, as though fully set forth herein.

115. The Bane Act provides a civil cause of action against anyone who “interferes by threat, intimidation, or coercion … with the exercise or enjoyment … of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state.” (§ 52.1, subd. (a); see *id.*, subd. (b).) “The essence of a Bane Act claim is that the defendant, by the specified improper means (i.e., ‘threats, intimidation or coercion’), tried to or did prevent the plaintiff from doing something he or she had the right to do under the law or to force the plaintiff to do something that he or she was not required to do under the law.” *Austin B. v. Escondido Union School Dist.*, 149 Cal.App.4th 860, 883 (2007).

116. “Where the Bane Act violation is based on allegations of an unlawful arrest where there was also excessive force in effectuating that arrest, a Bane Act claim can be stated. See, e.g., *Stubblefield v. City of Novato*, 2016 U.S. Dist. LEXIS 5662, 2016 WL 192539, at \*11 (N.D. Cal. Jan. 15, 2016) (discussing cases).

117. Here, Defendant Conley coerced Billy by using excessive force to make an unlawful arrest and threatened Billy in the patrol unit during transport to jail. According to Billy, Defendant Conley harassed him about something he did not do and intimidated Billy by declaring he was going to personally appear at Billy's arraignment to ensure he was properly punished.

118. In the Ninth Circuit, as it relates to Bane Act claims relating to inadequate medical care in a correctional setting, controlling law states, with regard to coercive conduct, “at the pleading stage, the relevant distinction for purposes of the Bane Act is between intentional and unintentional conduct.” *M.H. v. County of Alameda* (N.D. Cal. 2013) 90 F. Supp. 3d 889, 898 Courts have equated the

1 “[t]hreat, intimidation, or **coercion**” requirement to “intentional . . . conduct.” *Id.* at  
2 898. “That intent requirement is satisfied where the defendant allegedly acted with  
3 ‘[r]eckless disregard of the right at issue.’” *Cornell v. City and County of San*  
4 *Francisco* (1<sup>st</sup> Dist. 2017) 17 Cal. App. 5th at 804.

5 119. Here, all Defendants intentionally failed to relay critical medical  
6 information knowing Billy would die if not relayed. This intentional conduct,  
7 knowing Billy would die without proper treatment, and failing to obtain that  
8 treatment, rises to the necessary level of reckless disregard.

9 120. Based on Defendants’ intentional failure to act as referenced above,  
10 San Bernardino County is vicariously liable. See *Perreault v. Cty. of Westminister*  
11 (C.D. Cal. March 7, 2013) 2013 U.S. Dist. LEXIS 31780 at \*7 (recognizing  
12 availability of *respondeat superior* liability for violations of Bane Act).

13 121. Additionally, San Bernardino County is directly liable under the Bane  
14 Act because it intentionally chooses not to train or supervise its staff to relay critical  
15 information to jail medical staff, as detailed above.

16 122. Under the provisions of California Civil Code section 52(b),  
17 Defendants are liable for reasonable attorney’s fees and a civil penalty of \$25,000.

18 123. The conduct of Defendant Deputy Conley and Sergeant Umplett was  
19 malicious, wanton, oppressive, and accomplished with a conscious disregard for  
20 Billy’s rights, justifying an award of exemplary and punitive damages as to  
21 Defendant Conley and Umphlett.

22 124. Plaintiff A.E. brings this claim as successors-in-interest to Billy and  
23 seeks survival damages including emotional distress and loss of enjoyment of life  
24 under this claim. Plaintiff A.E. also seek treble damages, attorney’s fees, and costs  
25 under this claim.

26 125. As a result of all Defendants’ wrongful conduct, Billy’s successor in  
27 interest is entitled to all applicable damages and attorney’s fees according to proof  
28 and pursuant to Civil Code, section 52.1, as detailed above.

## **SEVENTH CAUSE OF ACTION**

## **Negligence – Failure to Summon Care (CCP 377.30)**

**(By Successor in Interest Against All Defendants and DOES)**

126. Plaintiffs reallege and incorporate by reference all paragraphs stated above, as though fully set forth herein.

127. California Government Code section 845.6 creates an affirmative duty for jailers to furnish or obtain medical care for a prisoner in their custody when the jailer knows the inmate is in serious medical distress.

128. Based on the allegations above, all Defendants knew Billy was suffering from severe medical and mental health distress, yet everyone failed to summon immediate medical care.

129. Based on those failures, San Bernardino County is vicariously liable for its employees' negligent conduct which was performed within the course and scope of their employment.

130. In doing the acts and/or omissions herein alleged, all Defendants failed to summon immediate medical care and therefore was negligent in their conduct. As a result thereof, Billy, through his successor in interest, is entitled to all applicable damages according to proof.

131. Pursuant to Code of Civil Procedure section 377.34, Billy is also entitled to recover “damages for pain, suffering, or disfigurement if the action or proceeding was ...filed on or after January 1, 2022, and before January 1, 2026.” Accordingly, because this action was filed in April of 2022, Billy is entitled to recover for the pain, suffering, and disfigurement related to the days leading up to his death.

132. As detailed above, Defendants' conduct amounts to oppression, fraud, or malice within the meaning of Civil Code Section 3294 et supra. Accordingly, punitive damages should be assessed against Defendants for the purpose of punishment and for the sake of example.

**EIGHTH CAUSE OF ACTION**  
**Wrongful Death (CCP 377.60)**  
**(By Fran Enyart, Greg Enyart, and A.E. Against All Defendants and  
DOES 1-10)**

133. Plaintiffs reallege and incorporate by reference all paragraphs stated above, as though fully set forth herein.

134. “A cause of action for the death of a person caused by the wrongful act or neglect of another may be asserted by any of the following persons or by the decedent's personal representative on their behalf: ... (b)(1)... stepchildren, parents, or the legal guardians of the decedent.” Ca. CCP 377.60.

135. All Defendants committed wrongful acts which proximately caused  
Billy' premature death. As Defendants' employer, San Bernardino County, is  
vicariously liable for Defendants' conduct which was performed in the course and  
scope of the employment.

136. These gross failures to act directly and proximately resulted in Billy's premature death.

137. A.E. will never get to share another adventure with her dad, or have his help on homework, or walk her down the aisle. She is currently in counseling and misses her dad daily. Fran and Greg will never be the same. Their youngest child was taken from them despite moving heaven and earth to get Billy help. Aside from the love they had for Billy, Billy was Greg's primary caregiver after he was diagnosed with cancer. Billy did everything for his father, from making him food, to picking up groceries, and taking him to the doctor. Since Billy's death, a hole has replaced their heart.

138. Accordingly, Defendants' wrongful acts caused Plaintiffs severe emotional damages, including the loss of love, support, guidance, society, and companionship. Defendants are also responsible for Plaintiffs' further economic loss and non-economic damages according to proof at trial.

## **NINTH CAUSE OF ACTION**

## **Violation of Americans With Disabilities Act**

**(By Successor in Interest Against Defendant Conley, Defendant Umphlett, and  
DOES 1-10)**

139. Plaintiffs reallege and incorporate by reference all paragraphs stated above, as though fully set forth herein.

140. At all relevant times, Defendants County of San Bernardino, Defendant Conley, Sergeant Umphlett and DOES 1-10 had an obligation under federal law to provide persons with disabilities with an equal opportunity to benefit from all of its programs, services and activities.

141. Defendants failed to reasonably accommodate Billy's disabilities including his depression and his alcoholism. Defendants failed to establish policies and procedures dealing with how to handle persons with disabilities and failed to establish proper training for officers and other employees on how to handle persons with disabilities. Defendants acted with deliberate indifference to a strong likelihood that Billy's federal rights would be violated.

142. By reason of the aforementioned acts and omissions, Plaintiffs have suffered loss of the love, companionship, affection, comfort, care, society, training, guidance, and past and future support of Billy. The aforementioned acts and omissions also caused Billy's pain and suffering, loss of enjoyment of life, and death. Accordingly, Defendants are liable to Plaintiffs for compensatory damages under 42 U.S.C. section 1983.

143. Plaintiff A.E. brings this claim as successor in interest to Billy and seek Survival and wrongful death damages under this claim. Plaintiff seeks damages, including for Billy's pain and suffering, loss of earning capacity, and loss of enjoyment of life. Plaintiff also seeks reasonable costs, funeral and burial expenses, and attorney's fees under 42 U.S.C. section 1988.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

1. For compensatory, general, and special damages against each Defendant, jointly and severally, in an amount according to proof;

2. For punitive and exemplary damages against each individually named Defendant in their individual capacity in an amount appropriate to punish Defendants and deter others from engaging in similar misconduct;

3. For costs and reasonable attorney's fees pursuant to 42 U.S.C. section 1988, the Bane Act, and as otherwise authorized by statute or law; and

4. For such other relief, including injunctive and/or declaratory relief, as the Court may deem proper.

## REQUEST FOR JURY

Plaintiffs hereby request a jury trial in this action.

Respectfully submitted,

PHG Law Group

Dated: July 24, 2023

by: s/ Danielle R. Pena

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